



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,762	07/10/2003	Timothy P. Blair	200300426-1	2303

22879 7590 04/03/2006

HEWLETT PACKARD COMPANY  
P O BOX 272400, 3404 E. HARMONY ROAD  
INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER

FLOURNOY, HORACE L

ART UNIT PAPER NUMBER

2189

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/616,762

Applicant(s)

BLAIR ET AL.

Examiner

Horace L. Flournoy

Art Unit

2189

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 1/13/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29-36 is/are allowed.
- 6) ☒ Claim(s) 1-3, 9, 11-12, 18-22, 27-28, and 37 is/are rejected.
- 7) ☒ Claim(s) 4-8, 10, 13-17 and 23-26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

This Office action has been issued in response to amendment filed 13 January 2006. Claims 1-37 are pending. Applicant's arguments have been carefully and respectfully considered, but they are not entirely persuasive, as will be discussed in more detail below, even in light of the instant amendments. Furthermore, new grounds for rejection have been set forth as a result of the instant amendments. Accordingly, this action has been made FINAL, as necessitated by amendment.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: "wherein the redefining is performed responsive to the retrieving [of] a first quantity of data from a remote entity." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-3, 9, 11-12, 18-22, 27-28, and 37** are rejected under 35 U.S.C. 102(b) as being anticipated by Ofek (U.S. Patent No. 6,272,131 hereafter referred to as Ofek).

Art Unit: 2189

With respect to independent claims 1, 11, and 21,

*"A method of retrieving data, comprising: waiting for a predefined interval of time; [Ofek discloses this limitation, e.g. in column 4, lines 24 -26] retrieving a first quantity of data [FIG.1 (see all associated text) "Data Packet 41A"] from a remote entity [FIG.1 "From Multiple Sources"] after the predefined interval of time; [Ofek discloses this limitation, e.g. in FIG.1: "Time Cycle 1", e.g.] and redefining the interval of time in accordance with a predefined function, wherein the redefining is performed responsive to the retrieving a first quantity of data from a remote entity." [Ofek discloses in column 4, lines 26-29, "When arriving packets exceed predefined average capacity, packets are rescheduled for alternative time intervals or discarded."]*

With respect to claims 2, 12, and 22,

*"The method of claim 1, and further comprising: waiting for the redefined interval of time; and retrieving a second quantity of data [See FIG.1] from the remote entity after the redefined interval of time." [Ofek discloses in column 4, lines 26-29, "When arriving packets exceed predefined average capacity, packets are rescheduled for alternative time intervals or discarded."]*

With respect to claims 3, 18, 27,

*"The method of claim 1, and wherein the retrieving the first quantity of data includes deleting the first quantity of data at the remote entity." [Ofek discloses in column 8, lines 10-27. Ofek teaches transferring or forwarding data packets from one remote location to another destination. The examiner*

Art Unit: 2189

interprets “deleting” as analogous to no longer being present at the remote entity.]

With respect to **claims 9, 20, and 28,**

*“The method of claim 1, and wherein retrieving the first quantity of data from the remote entity is performed by way of the Internet.”* [Ofek discloses the limitations of this claim, e.g. in column 6, lines 21-27]

With respect to **claim 19,**

*“The data handling system of claim 11, and wherein the local entity includes a data storage device configured to store the first quantity of data in correspondence to the retrieval of the first quantity of data from the remote entity.”* [See FIGs. 14-18 and associated text]

With respect to **independent claim 37,**

The following limitations of **independent claim 37** are interpreted under 35 U.S.C. 112, 6<sup>th</sup> paragraph.

According to the applicant's specification in paragraphs [0047]-[0050], the Examiner notes that the means or system/structure (“processor 134”) [see column 14, lines 38-40 and column 16, lines 52-53] for practice of the invention disclosed in the following limitation of Claim 1, is further taught in Ofek as follows:

*"A data handling system, comprising: remote means for generating a present quantity of data; **[FIG.1 (see all associated text) "Data Packet 41A"]** and local means for: waiting for an interval of time corresponding to retrieving a prior quantity of data from the remote means; **[Ofek discloses this limitation, e.g. in column 4, lines 24 -26]** and retrieving the present quantity of data from the remote means after the interval of time **[Ofek discloses this limitation, e.g. in FIG.1: "Time Cycle 1", e.g.]**; and redefining the interval of time in accordance with a predefined function responsive to the retrieving the present quantity of data from the remote means." **[Ofek discloses in column 4, lines 26-29, "When arriving packets exceed predefined average capacity, packets are rescheduled for alternative time intervals or discarded."]***

### ***Allowable Subject Matter***

Claims 29-36 are allowed.

Claims 4-8, 10, 13-17, and 23-26, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 4-8, 10, 13-17, 23-26, and 29-36 are allowable for the following reasons:

With respect to claims 4-8, 10, 13-17, 23-26, 29-36, the prior art of record does not teach the limitations of *"divide...period; multiply...time"* in combination with the other elements or steps in the claims.

***Response to Arguments***

Applicant's arguments with respect to claims 1-28, 37 have been considered but are moot in view of the new ground(s) of rejection. New grounds of rejection necessitated by applicant's amendments to the claims.

***CONCLUSION***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Direction of Future Correspondences**

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Horace L. Flournoy whose telephone number is (571) 272-2705. The examiner can normally be reached on Monday through Friday 8:00 AM to 5:30 PM (ET).

Art Unit: 2189

**Important Note**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Reginald G. Bragdon can be reached on (571) 272-4204. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 746-7239.

Information regarding the status of an Application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or PUBLIC PAIR. Status information for unpublished applications is available through Private Pair only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Horace L. Flourney

Patent Examiner

Art unit: 2189

*Reginald G. Bragdon*  
REGINALD G. BRAGDON  
SUPERVISORY EXAMINER

Supervisory Patent Examiner

Technology Center 2100